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11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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14 DANIEL PORTUGAL,)
15 Plaintiff(s),) No. C 08-3311 CRB (PR)
16 v.) ORDER
17 T. FELKER, et al.,) (Docket # 1 & 4)
18 Defendant(s).)
19

20 On January 16, 2008, plaintiff, a prisoner at High Desert State Prison
21 ("HDSP") in Susanville, California, filed a pro se civil rights complaint for
22 damages under 42 U.S.C. § 1983 alleging that, while incarcerated at Salinas
23 Valley State Prison ("SVSP") in Soledad, California, prison dentists "botched"
24 several dental surgical procedures. The court found that plaintiff's allegations
25 state a cognizable § 1983 claim for damages against the named SVSP defendants
26 and ordered the United States Marshal to serve them. See Portugal v. Grannis,
27 No. C 08-0276 CRB (PR), slip op. at 2 (N.D. Cal. May 27, 2008) (order of
28 service).

1 On June 30, 2008, plaintiff filed a motion for a temporary restraining order
2 ("TRO")/preliminary injunction in civil case 08-0276.

3 On July 9, 2008, the clerk inadvertently filed a copy of the motion as new
4 civil case 08-3311. Good cause appearing therefor, civil case 08-3311 is
5 DISMISSED as improvidently opened.

6 The clerk shall close civil case 08-3311 and terminate all pending motions
7 (see docket # 1 & 4) as moot. No filing fee is due in this improvidently opened
8 action.

9 SO ORDERED.

10 DATED: August 20, 2008


CHARLES R. BREYER
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

DANIEL PORTUGAL,

Case Number: CV08-03311 CRB

Plaintiff,

CERTIFICATE OF SERVICE

v.

T FELKER et al,

Defendant.

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I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 20, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Daniel Portugal V-51068
High Desert State Prison
B4-113
P.O. Box 3030
Susanville, CA 96127

Dated: August 20, 2008

Richard W. Wieking, Clerk
By: Barbara Espinoza, Deputy Clerk